

JS 44 (Rev. 06/17)

CIVIL COVER SHEETCounty in which action arose: Wayne

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFSLISA LOU PAUL, fka
Lisa Lou Baker(b) County of Residence of First Listed Plaintiff Monroe
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

THAV, RYKE & ASSOCIATES, PLLC
24725 W. 12 Mile Road, Suite 110
Southfield, Michigan 48034**DEFENDANTS**WALTER SAKOWSKI, Personal Representative of the Estate of Robert D. Baker,
Deceased & METROPOLITAN LIFE INSURANCE COMPANYCounty of Residence of First Listed Defendant Wayne
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

LAW OFFICE OF STEPHEN J. REMSKI, PC (Estate)
13407 Farmington Road, Suite 102
Livonia, Michigan 48150**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 USC 1132(a)(1)(B)

Brief description of cause:

claim for benefits due under ERISA plan clarification and enforcements of rights under the plan

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Craig S. Strong & Mark A. GoldsmithDOCKET NUMBER 17-016338-CZ/2:17-cv-13854

DATE

1/16/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☒ Yes

☐ No

If yes, give the following information:

Court: Michigan 3rd Circuit/US District Court-E. Dist. of MI

Case No.: 17-016338-CZ/2:17-cv-13854-MAG-RSW

Judge: Craig S. Strong/Mark A. Goldsmith

Notes : A Notice of Removal was filed in this Court on 11/29/17; 2:17-cv-13854-MAG-RSW

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

LISA LOU PAUL, fka
Lisa Lou Baker,

Plaintiff,

Case No.
Hon.

v.

WALTER SAKOWSKI,
Personal Representative of the Estate of
Robert D. Baker, Deceased, and
METROPOLITAN LIFE INSURANCE
COMPANY,

Defendants

ANDREW J. THAV (P57879)
JASON P. DANDY (P69686)
Attorneys for Plaintiff
THAV, RYKE & ASSOCIATES, PLLC
24725 W. 12 Mile Road, Suite 110
Southfield, MI 48034
Telephone: (248) 945-1111
athav@michprobate.com
jdandy@michprobate.com

STEPHEN J. REMSKI (P30309)
Attorney for Defendant Walter Sakowski,
Personal Representative of the Estate of
Robert D. Baker, Deceased
LAW OFFICE OF STEPHEN J. REMSKI, PC
13407 Farmington Road, Suite 102
Livonia, MI 48150
Telephone: (734) 525-7316
lawofficesremski@gmail.com

COMPLAINT

NOW COMES Plaintiff, LISA LOU PAUL, fka, Lisa Lou Baker, by and through her
attorneys, THAV, RYKE & ASSOCIATES, PLLC, and for her Complaint states as follows:

PARTIES

1. Lisa Lou Paul (hereinafter “Plaintiff”) is a resident of the Village of Dundee, County of Monroe, State of Michigan.
2. Robert D. Baker (hereinafter “Decedent”) passed away on March 9, 2017 in the City of Flat Rock, County of Wayne, State of Michigan. (See **Exhibit A, Death Certificate**).
3. Upon information and belief, Defendant Estate of Robert D. Baker (hereinafter the “Estate”), is an Estate (Estate of Robert D. Baker, Wayne County, Michigan Probate Case No. 2017-826000-DE), whose Personal Representative is Attorney Walter Sakowski, located at 15244 Middlebelt Road, Livonia, Michigan 48154.
4. Upon information and belief, Walter Sakowski is a Public Administrator, having been appointed by the Wayne County Probate Court.
5. Upon information and belief, Defendant Metropolitan Life Insurance Company (hereinafter “MetLife”) is an insurance company licensed to transact business in the State of Michigan, whose principal place of business is 200 Park Avenue, New York, New York 10166.

JURISDICTION

6. This Court has jurisdiction pursuant to 28 USC § 1331, as this action arises under the laws of the United States.
7. This is an action governed by, and therefore preempted by, the Employee Retirement Income Security Act, 29 USC § 1001, *et seq.* (“ERISA”).
8. Plaintiff’s allegations and the nature of this action constitute a claim for benefits due under an ERISA plan and for clarification and enforcement of rights under that plan, which, pursuant to 29 USC § 1132(a)(1)(B) and 29 USC § 1132(e)(1), constitute a claim over which this Court has concurrent jurisdiction with the State Court.

9. This Court has jurisdiction to hear this action without regard to the amount in controversy or citizenship of the parties pursuant to 29 USC § 1132(f).

GENERAL ALLEGATIONS

10. Decedent was an employee of Chrysler Corporation.
11. Decedent had a Met Life Insurance Policy, policy number 0136151 (hereinafter the “Policy”), purchased by decedent by reason of his employment with Chrysler.
12. MetLife funds the life insurance benefits under the Policy by a group life insurance policy issued to Chrysler Corporation.
13. MetLife is the claims fiduciary of the Policy.
14. Pursuant to 29 USC § 1002(1), the Policy is an employee welfare benefit plan that is regulated by ERISA.
15. On information and belief, Decedent and Plaintiff were married until February 26, 2016.
16. A Consent Judgment of Divorce was entered in the Monroe County Circuit Court on February 26, 2016. (See **Exhibit B, Consent Judgment of Divorce**).
17. There was no Qualified Domestic Relations Order (“QDRO”) entered at the time of the divorce.
18. Decedent passed away on March 9, 2017.
19. Decedent lived in Wayne County, was employed in Wayne County, passed away in Wayne County, and the Estate is currently being probated in Wayne County, file number 2017-826000-DE.
20. Plaintiff is the last-named beneficiary of the Policy, as designated in 1995.
21. Decedent did not change the beneficiary designation of the Policy, nor did he name an alternate payee to receive the benefits payable under the Policy.

22. The Policy is subject to conflicting claims by Plaintiff and the Estate for the proceeds of the Policy.
23. The Estate made a claim to MetLife for the benefits of the Policy, which was subsequently denied by MetLife. (**See Exhibit C, Letter Demonstrating Denied Claim**).
24. On November 14, 2017, the Estate filed a Complaint for Declaratory Relief in the 3rd Circuit Court, County of Wayne, case number 17-016338-CZ, seeking a hearing on a preliminary injunction to prevent Plaintiff from claiming any interest in the proceeds of the Policy.
25. Plaintiff timely removed the aforementioned action to this Court on November 29, 2017, case number 2:17-cv-13854-MAG-RSW, pursuant to 29 U.S.C. § 1132(a)(1)(B), 28 USC § 1331, 28 USC § 1441, and 28 USC § 1446.
26. Pursuant to ED Mich LR 83.11, this case is a companion case to the case referenced above because the cases will offer substantially similar evidence and the same or related parties are present and the cases arise out of the same transaction or occurrence.

REQUEST FOR ORDER FOR DISBURSEMENT OF BENEFITS TO PLAINTIFF

27. MetLife, as claims fiduciary, has a duty to “discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries . . . in accordance with the documents and instruments governing the plan . . .” 29 USC § 1104(1)(D).
28. 29 USC § 1056(d)(1) provides that the benefits provided under a plan may not be assigned or alienated.
29. There is an exception to 29 USC § 1056(d)(1) for QDROs. 29 USC § 1056(d)(3)(A).

30. The Consent Judgment of Divorce fails to meet the explicit criteria under 29 USC § 1056(d)(3) to constitute a QDRO.
31. Under the terms of the Policy and the governing law, when there is no QDRO to the contrary, MetLife is required to pay the life insurance benefits to the designated beneficiary. *Metropolitan Life Ins Co v Marsh*, 119 F3d 415 (6th Cir 1997).
32. MetLife properly denied the Estate's claims for payment of benefits under the Policy.

WHEREFORE, Plaintiff requests:

1. That this Court order that this case is a companion case to case number 2:17-cv-13854-MAG-RSW, which was case number 17-016338-CZ in the 3rd Circuit Court, County of Wayne, which was removed to this Court on November 29, 2017.
2. That this Court order that Plaintiff is the proper recipient of the Policy benefits.
3. That this Court order MetLife to disburse Policy funds to Plaintiff, or, alternatively, order that MetLife disburse Policy funds into this Court's escrow account pending a final determination in this matter.
4. That this Court grant any other relief as appropriate.

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

LOCAL RULE CERTIFICATION: I, Andrew Jay Thav, certify that this document complies with Local Rule 5.1(a), including: double-spaced (except for quoted materials and footnotes); at least one-inch margins on the top, sides, and bottom; consecutive page numbering; and type size of all text and footnotes that is no smaller than 10-1/2 characters per inch (for non-proportional fonts) or 14 point (for proportional fonts). I also certify that it is the appropriate length. Local Rule 7.1(d)(3).

Respectfully Submitted,
THAV, RYKE AND ASSOCIATES

/s/ Andrew Jay Thav
JASON P. DANDY (P69686)
ANDREW JAY THAV (P57879)
Attorneys for Plaintiff
24725 W. Twelve Mile Road, Suite 110
Southfield, Michigan 48034
(248) 945-1111

Dated: January 25, 2018